



POLICE DEPARTMENT

The
City
of
New York

In the Matter of the Disciplinary Proceedings :
- against - : FINAL
Former Detective Rudranau Toolasprashad : ORDER
Tax Registry No. 902481 : OF
: DISMISSAL

X

Former Detective Rudranau Toolasprashad, Tax Registry No. 902481, Social Security No. ending in [REDACTED], having been served with written notice, has been tried on written Charges and Specifications numbered 81669/06 as set forth on form P.D. 468-121, dated March 9, 2006, and after a review of the entire record, Respondent has been found Guilty as Charged of Specification Nos. 1, 2, 5 and 6. Respondent is found Guilty in part of Specification Nos. 9 and 12. Respondent is found Not Guilty of Specification Nos. 3, 4 and 13. Specification Nos. 7, 8, 10, and 11 are dismissed.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby approve the recommendation that Former Detective Rudranau Toolasprashad's employment status not be changed and that he remains DISMISSED from the Police Service of the City of New York.

A handwritten signature in black ink, appearing to read "Raymond W. Kelly".

RAYMOND W. KELLY

POLICE COMMISSIONER

EFFECTIVE: On February 4, 2013 at 0001hrs.



POLICE DEPARTMENT

December 31, 2012

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In the Matter of the Charges and Specifications : Case No. 81669/06

- against - :

Former Detective Rudranau Toolasprashad :

Tax Registry No. 902481 :

:

-X-

At: Police Headquarters
One Police Plaza
New York, New York 10038

Before: Honorable Martin G. Karopkin
Deputy Commissioner - Trials

A P P E A R A N C E:

For the Department: Harry Peters, Esq.
Jacqueline McMahon-Smith, Esq.
Department Advocate's Office
One Police Plaza
New York, New York 10038

For the Respondent: Tried *in absentia*

To:

HONORABLE RAYMOND W. KELLY
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

A disciplinary case involving the above-named member of the Department was heard before me on September 21, September 26, November 1, November 7, and December 12, 2011, and February 1 and March 5, 2012. He is charged with the following:

1. Said Detective Rudranau Toolasprashad, last assigned to Housing Bureau Brooklyn, on or about and between December 19, 2003 and February 6, 2004, while acting in concert with Person H, did attempt to steal property, to wit: US currency in excess of \$50,000.00 (fifty thousand dollars), from Mandeep Singh and Parminder Singh, by stating he could assist them with alleged current and/or future immigration issues in return for this money. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT
NYS PENAL LAW SECTION 155.40 – ATTEMPTED GRAND LARCENY IN
THE SECOND DEGREE

2. Said Detective Rudranau Toolasprashad, last assigned to Housing Bureau Brooklyn, on or about and between December 19, 2003 and February 6, 2004, with intent to obtain a benefit for himself, did knowingly commit an act relating to his office, but constituting an unauthorized exercise of his official functions, knowing such act is unauthorized, to wit; he used his office in order to attempt to obtain US currency for himself and for Person H by stating he could assist Mandeep Singh and Parminder Singh with alleged current and/or future immigration issues. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT
NYS PENAL LAW SECTION 195.00 – OFFICIAL MISCONDUCT

3. Said Detective Rudranau Toolasprashad, last assigned to Housing Bureau Brooklyn, on or about and between January 1, 2003 and December 31, 2004, did accept a benefit for having engaged in official conduct which he was required or authorized to perform, and for which he was not entitled to any special or additional compensation, to wit: he had Mandeep Singh fix, repair and/or build a deck and/or deck roof for said Detective's home without financial compensation, in return for said Detective's assistance in his capacity as a police officer. *(As amended)*

P.G. 203 10, Page 1, Paragraph 5 – PROHIBITED CONDUCT
NYS PENAL LAW SECTION 200.35 – RECEIVING UNLAWFUL
GRATUITIES

4. Said Detective Rudranau Toolasprashad, last assigned to Housing Bureau Brooklyn, On or about and between January 1, 2003 and December 31, 2004, with intent to obtain a benefit for himself, did knowingly commit an act relating to his office, but constituting an unauthorized exercise of his official functions, knowing such act is

unauthorized, to wit: he had Mandeep Singh fix, repair and/or build a deck and/or deck roof for said Detective's home without financial compensation, in return for said Detective's assistance in his capacity as a police officer. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5 – PROHIBITED CONDUCT
NYS PENAL LAW SECTION 195.00 OFFICIAL MISCONDUCT

5. Said Detective Rudranau Toolasprashad, last assigned to Housing Bureau Brooklyn, on or about and between November 1, 2003 and January 25, 2004, during the course of an official Department investigation, with intent to obtain a benefit for himself, did knowingly refrain from performing a duty clearly inherent in the nature of his office, to wit: having become aware of serious misconduct or corruption on the part of another member of the service, did fail and neglect to notify his Commanding Officer and/or the Internal Affairs Bureau Command Center, as required in that he failed to notify the Department that a Sergeant in the New York City Police Department had warned him that he was the subject of an investigation, and had given said Detective two (2) IAB documents detailing complaints made against him by names persons. *(As amended)*

P.G. 207-01, Page 1-2 ALLEGATION OF CORRUPTION & SERIOUS
MISCONDUCT AGAINST MOS
NYS PENAL LAW SECTION 195.00 OFFICIAL MISCONDUCT

6. Said Detective Rudranau Toolasprashad, last assigned to Housing Bureau Brooklyn, while off duty, on or about September 3, 2005, did wrongfully and without just cause engage in off duty employment without permission or authority to do so, in that he furnished for hire or reward, watchmen or guards or private patrolmen or other persons to protect persons or property, and he did fail and neglect to obtain a License, as required. *(As amended)*

P.G. 205-40, Page 1, Paragraph 1 – OFF DUTY EMPLOYMENT
P.G. 205-40, Page 9-10 – OFF DUTY EMPLOYMENT
NY GENERAL BUSINESS LAW SECTION 70 LICENSES

7. Said Detective Rudranau Toolasprashad, last assigned to Housing Bureau Brooklyn, on or about September 3, 2005, while off duty, having furnished for hire or reward, watchmen or guards or private patrolmen, or other persons to protect persons or property, did fail and neglect to obtain a Watchguard License, as required.

P.G. 205-40, Page 1, Paragraph 1 OFF DUTY EMPLOYMENT

8. Said Detective Rudranau Toolasprashad, last assigned to Housing Bureau Brooklyn, on or about February 11, 2004, having been directed by New York City Police Chief Raymond King, not to engage in any Community Affairs activities after being placed on modified assignment, did fail and neglect to comply with said order after that date.

P.G. 203-03, Page 1, Paragraph 2 – COMPLIANCE WITH ORDERS

9. Said Detective Rudranau Toolasprashad, last assigned to Housing Bureau Brooklyn, on or about July 26, 2005, while off duty, did wrongfully solicit funds for a political fundraiser from Gurdev Dogra (“Andy”) and another person, and did so with the intent to benefit himself by committing an act relating to his office, but constituting an unauthorized exercise of his official functions, knowing such act to be unauthorized. *(As amended)*

P.G. 203-10, Page 1, Paragraph 6 PROHIBITED CONDUCT
NYS PENAL LAW SECTION 195.00 OFFICIAL MISCONDUCT

10. Said Detective Rudranau Toolasprashad, last assigned to Housing Bureau Brooklyn, sometime on or before September 2004, did knowingly confer, offer, or agree to confer a benefit upon a public servant, Philip Sparacio, an employee of the Parks Department, for having engaged in official conduct which he was required or authorized to perform and for which he was not entitled to any additional or special compensation, in that he did give to said Parks Department employee an amount of US currency and wine in return for said Parks Department employee issuing permits for events other than that cited in Specifications numbered 12 and 13. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5 PROHIBITED CONDUCT
NYS PENAL LAW SECTION 200.30 -- GIVING UNLAWFUL GRATUITIES

11. Said Detective Rudranau Toolasprashad, last assigned to Housing Bureau Brooklyn, sometime on or before September 2004, with intent that conduct constituting a crime be performed, agreed with one or more persons to engage in or cause the commission of said conduct, to wit: the giving of unlawful gratuities, Penal Law section 200.30, as delineated in Specification #10 above. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5 PROHIBITED CONDUCT
NYS PENAL LAW SECTION 105.00 CONSPIRACY IN THE SIXTH DEGREE

12. Said Detective Rudranau Toolasprashad, last assigned to Housing Bureau Brooklyn, on or about and between July 26, 2005 and September 3, 2005, while acting in concert with Gurdev Dogra (“Andy”) did knowingly confer, offer or agree to confer a benefit upon a public servant, Philip Sparacio, an employee of the Parks Department, for having engaged in official conduct which he was required or authorized to perform and for which he was not entitled to any additional or special compensation, in that he did give to said Parks Department employee an amount of US currency and a case of wine in return for said Parks Department employee issuing a permit to hold an event in Smoky Park. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5 PROHIBITED CONDUCT
NYS PENAL LAW SECTION 200.30 GIVING UNLAWFUL GRATUITIES

13. Said Detective Rudranau Toolasprashad, last assigned to Housing Bureau Brooklyn, on or about and between July 26, 2005 and September 3, 2005, with intent that conduct constituting a crime be performed, agreed with one or more persons to engage in or cause the commission of said conduct, to wit: the giving of unlawful gratuities, Penal Law Section 200.30, as delineated in Specification #12 above. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5 –PROHIBITED CONDUCT
NYS PENAL LAW SECTION 105.00 CONSPIRACY IN THE SIXTH
DEGREE

The Department was represented by Harry Peters, Esq. and Jacqueline McMahon-Smith, Esq., Department Advocate's Office. Respondent was tried *in absentia* and was not represented by counsel. The Department made a motion to dismiss Specification Nos. 7 and 8 before the commencement of trial. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent is found Guilty of Specification Nos. 1, 2, 5, and 6. Respondent is found Guilty in part of Specification Nos. 9 and 12. Respondent is found Not Guilty of Specification Nos. 3, 4 and 13. Specification Nos. 7, 8, 10 and 11 are dismissed.

BACKGROUND

Respondent was dismissed from the Department on April 3, 2006, after a disciplinary trial at which he did not appear. An order issued by the Supreme Court, New York County (Marilyn Shafer, J.) on July 13, 2007, overturned the original disciplinary proceeding and directed that "the matter is remanded to respondent [NYPD] for a full hearing on proper notice to petitioner Toolasprashad, consistent with this opinion." That order was affirmed, (80 A.D. 3d 530 (1st Dept. 2011), lv. denied 16 N.Y. 3d 714 (2011)).

On June 23, 2011, the case was restored to the calendar in this Department's disciplinary trial room. At approximately the same time Respondent commenced an Article 78 proceeding in Supreme Court, New York County seeking among other things to enjoin the Department from proceeding with the instant disciplinary action. That application and indeed all the relief sought in the Article 78 proceeding was denied in a Final Disposition order and decision dated March 21, 2012, (Saliann Scarpulla, J.).

The trial of this disciplinary matter proceeded with many adjournments. Respondent never appeared and much of the time was spent on the issue of notice to him. This decision will endeavor to address both issues of service upon Respondent as well as the substantive issues contained in the charges and specifications. This decision is therefore divided into two parts, the first dealing with service and the second dealing with the substantive charges.

On the issue of service the Assistant Department Advocate (Advocate) explained the attempts that have been made to serve Respondent with the instant charges and specifications. Through investigation, the Internal Affairs Bureau (IAB) was able to identify three residences and two businesses believed to be associated with Respondent. While members of both IAB and the Litigation Support Unit went to those locations, nobody succeeded in serving Respondent in person. Attempts to serve Respondent at his lawyer's office and his union attorney's office were also unsuccessful. As a result, the Department resorted to alternative service, such as service by mail and serving other "persons of reasonable age and discretion" on Respondent's behalf. Before getting to the allegations of misconduct, the Department called witnesses to testify on the issue of service.

PART I – SERVICE AND NOTIFICATIONSUMMARY OF EVIDENCE PRESENTED REGARDING SERVICE OF CHARGESAND NOTIFICATION OF TRIAL

The Department called Lieutenant Brian Parr, Sergeant Antonio Hernandez, Detective Fernando Martinez, and Police Officer Stephen Suo as witnesses on this issue.

Lieutenant Brian Parr

Parr is currently assigned to IAB Group 27. In June 2011, he was assigned to locate Respondent at his residence. His first investigative step was to conduct a public records check on Respondent. The check came back with three addresses: the first on Location A, the second on Location B, and the third on Location C. On the afternoon of June 8, Parr visited the Location C address, which the records showed as being Respondent's residence as recently as 2010. The purpose of the visit was to make observations and gather any type of intelligence. At the location, Parr observed a woman and two children exit the house and get into a Mercedes that was registered to Respondent at the Location A address. Parr spoke that day with the mailman in the area. The mailman told Parr that Respondent did, in fact, live at the Location C residence with his wife and received mail there. The mailman confirmed Respondent's identity against a photograph that Parr showed him. When Parr returned to the residence that night he saw in the driveway a Chrysler that, like the Mercedes, was registered to Respondent at the Location A address. A Department of Motor Vehicles check showed that Respondent had two other vehicles

registered under his name at the Location A address and that that address was also the one on his driver license. At no point that day did Parr see Respondent.

The next day, Parr went to the residence on Location A. There were no people or vehicles present. Parr spoke with a neighbor. The neighbor told Parr that although Respondent owned the house he had not been seen there in quite some time. To the neighbor's knowledge, Respondent rented out the basement to his sister and the upstairs to somebody else. The neighbor believed that Respondent lived somewhere on Long Island and may own two movie theaters. The neighbor did not identify himself to Parr.

The same day, Parr also went to the residence on Location B, where he saw a Toyota in the driveway. The car was registered to Respondent at Location A. Parr spoke with a woman who answered the door. The woman, who would not identify herself to Parr, told him that she lived there with her husband. The address on Location B was the last one that Respondent had listed with the Department. Parr did not see Respondent that day.

On June 10, Parr conducted inquiries on the Mercedes and Chrysler in the License Plate Reader System (LPR). He explained that LPR is a system that shows if a car has been photographed anywhere in the city. The inquiry showed that both cars were photographed at several locations, including Queens Boulevard and 42 Street. When Parr went to the Queens Boulevard address he saw that a movie theater named Sunny Side Cinema was located there. Parr spoke with a theater cleaner outside of the building. The cleaner knew Respondent but told Parr that he (Respondent) conducted business over the

phone and seldom visited the location. Parr did not ask for the cleaner's name. A public records business check came back with negative results.

The next day, Parr conducted surveillance at the Location C address. He observed the Chrysler pull into the driveway and a man fitting Respondent's description exit the car. The man proceeded to water the flowers outside of the house, get mail from the mailbox, and enter the house using a key. Parr did not serve the man with papers because he was not aware at the time that Respondent needed to be served. Based on his observations, however, Parr believed that that was where Respondent lived.

On June 14, 2011, Parr conducted another surveillance of the Location C address. He observed the Mercedes pull into the driveway and the woman he had seen with the children several days earlier exit the car. On June 20, he saw the same car in the driveway and the same woman standing by the open front door of the house. Parr did not see Respondent on either of those days. On June 23, he again saw the Mercedes in the driveway and he was able to see the woman inside the house. The next day, he saw the Mercedes in the driveway at the Location C address and the Toyota parked in front of the Location B address. On June 25, he saw the man he believed to be Respondent inside the Location C residence. Parr proceeded to notify his commanding officer. The next day, he saw the Toyota parked in the driveway at the Location A address.

A summons check showed that the Chrysler had received several summonses in the area of 129 Street and Liberty Avenue. Parr went to that location but did not find any leads on Respondent. The same day, he went to the area of 103 Street and 94 Avenue, a location where two of Respondent's cars had been photographed. When Parr saw one of the cars parked in front of a body shop, he got Respondent's cell phone number from the

body shop owner. Later that day, Parr's commanding officer called the number, but there was no answer and leaving a message was not possible because the mailbox was full. On June 29, Parr called the number himself and got the same result. He subsequently sent a text message asking Respondent to call IAB. There was never any response to the message.

Parr ascertained that Respondent had made a complaint of criminal mischief regarding the Sunny Side Cinema on January 28, 2011. In addition, 15 calls had been made to 911 between 2008 and 2011 using the cell phone. He also ascertained that Respondent has also made complaints regarding disturbances at a movie theater named Main Street Cinema. Parr subsequently called the landlines at both the Sunny Side Cinema and Main Street Cinema but was unsuccessful in reaching Respondent.

On July 1, Parr prepared 12 sets of copies of Respondent's charges and specifications and the notification for a July 14, 2011, trial room appearance. Two sets were sent to each location of interest: Location C (believed to be Respondent's main address, where he lived with his wife); Location A (a property owned by Respondent, where his sister resided, and where his cars were registered¹); Location B (the last known address that Respondent had on record with the Department); a Liberty Avenue address where Respondent's close friend had a law office; and the two movie theaters believed to be owned by Respondent. At each of these locations Parr hand-delivered one set of the charges and appearance notification and on July 5, 2011, sent the second set via certified mail, return receipt requested. Each set was in an envelope addressed to Respondent.

¹ The Assistant Department Advocate also stated that the Location A address was the one given by Respondent on his pension paperwork.

Parr described his attempts at personal service. On July 5, 2011, he went to the Sunny Side Cinema and gave a set to Person A, the theater manager. On the same day, Parr went to the law firm on Liberty Avenue and gave a set to an attorney named Person B. The next day, he went to the Location C residence and gave a set to Elsa Toolasprashad, who identified herself as Respondent's wife. Elsa told Parr that even though she and Respondent were separated and she did not know where he was, she would make sure that he got the envelope. The same day, he went to the Location A residence and placed a set of charges inside the door handle because nobody seemed to be at home. At the Location B residence, he left a set in the mailbox after a woman who identified herself as Respondent's mother refused to accept it. The woman told Parr that she would not touch the envelope nor would she tell Respondent about the visit. At the Main Street Cinema, Parr gave a set to Person C, the theater manager. On July 8, Parr mailed another copy of all the paperwork via first class mail to all six addresses.

[Department's Exhibit (DX) 1 consists of investigative reports concerning the efforts made by Parr and other members of his group in locating Respondent. DX 2 consists of copies of the charges and appearance notification that Parr sent via certified mail on July 5. DX 3 consists of copies of the set he mailed via first class mail three days later.]

Sergeant Antonio Hernandez

On July 19, 2011, Hernandez prepared a notification for Respondent to appear in the trial room on July 28. He sent two copies of the notification to the addresses at Location C, Location A, Location B, the two movie theaters believed to be owned by Respondent, and a Park Avenue location believed to possibly be the address of

Respondent's attorney. To each of these locations he sent one copy of the notification via first class mail and a second copy via certified mail, return receipt requested. Each copy was mailed in an envelope addressed to Respondent. [DX 4 consists of copies of the notifications and envelopes mailed by Hernandez.]

Detective Fernando Martinez

Martinez is currently assigned to IAB Group 27. On July 19, 2011, he attempted to serve Respondent in person with the notification for the July 28 appearance. At the Location C residence, Elsa told Martinez that Respondent was not there and accepted the notification herself. At the Main Street Cinema, the manager, Joel Ochoa, told him that Respondent was on vacation and accepted the notification himself. At the Sunny Side Cinema, the manager, Alex Calderas, also told him that Respondent was on vacation and accepted the notification himself. At the Location A residence, he left the notification in the mailbox because nobody was at home. At the Location B residence, Respondent's brother, Serge Toolasprashad, refused to accept the notification. At no point that day did Martinez see Respondent.

Police Officer Stephen Suo

Suo, a ten-year member of the Department, is currently assigned to the Department Advocate's Office. In June 2011, he was assigned to locate and serve Respondent with copies of amended charges and notifications to appear in the trial room. After conducting a postal check for viable addresses, Suo and his partner, Police Officer James Nilsen, went to the Location C residence on October 5, 2011. When the

officers saw Respondent exit the house and enter the Toyota parked in the driveway, they approached the car. With his identification in his hand, Suo informed Respondent that he was there to serve him with the charges and appearance notification. Respondent heard Suo even though the car windows were rolled up. Respondent told Suo to get out of his way and continued to back the car out of the driveway, ignoring Nilsen's instructions to stop the car. At that point, Suo placed the envelope containing the paperwork under the car's windshield wiper. Suo, who has seen a photograph of Respondent, had no doubt that the man inside the car was in fact Respondent. [DX 5 consists of an affidavit of the October 5 service and the copy of the amended charges and the notification to appear for trial on November 1, 2011, that Suo placed under Respondent's windshield.]

On July 20, 2011, Suo mailed four boxes of discovery in this matter to Respondent at the Location C address and to his attorney, Person D. He mailed them certified mail, return receipt requested. [DX 6 consists of copies of the certified mail receipts.] Suo knew that Person D received the boxes because he got back copies of the return receipts. After learning that Person D no longer represented Respondent, Suo went to the law office to take back the boxes. The boxes sent to Location C were never received by Respondent. A postal check Suo subsequently conducted showed that those boxes went unclaimed. [DX 7 is a copy of the postal check results.] On September 19, 2011, Suo sent four more boxes to Respondent at the Location A residence. Once again, Suo mailed the boxes certified mail, and a postal check showed that they were never received by Respondent. [DX 8 consists of copies of the receipts.]

FINDINGS REGARDING SERVICE AND NOTIFICATION

On June 23, 2011, the case was restored to the calendar in this Department's disciplinary trial room. On that date the Advocate represented that a notice of trial and a copy of the charges had been accepted by an attorney, Person D. The Advocate also indicated that Person D had advised him that he would not be representing Respondent on the disciplinary matter. Person D is listed as the attorney of record for Respondent in the appeal of the aforementioned Supreme Court order. The matter was adjourned for additional efforts to serve Respondent.

On July 14, 2011, the matter again came before me. Respondent did not appear. The Advocate represented that efforts had been made to serve Respondent by officers assigned to IAB. He stated that the officers believed that Respondent was evading service. He stated that they attempted alternate service at a number of locations which included two residences, two movie theaters owned by Respondent and his parent's address [REDACTED].

The Advocate also stated that he had again spoken to Person D who advised him that while he was not representing Respondent on the disciplinary matter he had sought an order to show cause in Supreme Court to enjoin the Department from proceeding on any hearing in this matter.

The matter next appeared before me on July 28, 2011. Respondent did not appear however an attorney, Person E, of Person D's law firm did appear. Levine spoke on the record. He stated:

I just want to note for the record, before we start, we actually do not represent the Respondent in this proceeding. We represent and have been retained by him in an Article 78 proceeding that is currently pending in Supreme Court New York County. We represent him in

that Article 78. The reason we are here, as an officer of the Court, we have been served, even though we don't represent him, with a notice of amended charges and some other documents. That is why we are here today, to give the Court information that is relevant here.

Person E went on to note that a temporary stay had been vacated and that the Appellate Division 1st Department was to hear the matter, on submission, on the coming Monday, August 1, 2011. He asserted that Respondent herein had moved to reinstate the temporary stay pending determination of the Article 78 proceeding. He noted that it was Respondent's position that the Department should be prohibited from conducting a disciplinary hearing and that the Department no longer had jurisdiction over him.

At the close of the proceeding the Court advised Person E and the Advocate that there did not appear to be any legal impediment to proceeding with the disciplinary matter and set a trial date of September 21, 2011.

On September 21, 2011, Respondent did not appear. The proceeding commenced with the calling of several witnesses, Lieutenant Brian Parr, Sergeant Antonio Hernandez and Detective Fernando Martinez, who testified on the issue of the efforts made to serve Respondent. The matter was adjourned to September 26, 2011.

On September 26, 2011, Respondent did not appear. The Advocate indicated that additional notices had been sent out to Respondent. He also reported that he looked at the civil court filings made by Respondent to see if he listed an address. The Advocate reported that there was no address listed for Respondent but that his retirement paperwork listed the address at Location A, one of the addresses about which there had been testimony. No testimony was taken on this date and further efforts to serve Respondent were ordered by the Court. The matter was adjourned to November 1, 2011.

On November 1, 2011, Respondent did not appear. The Advocate asserted that Person D was aware of the disciplinary proceedings and the civil proceeding had been adjourned. Police Officer Steven Suo testified on this date about efforts made to serve Respondent.

Suo testified among other things that on October 5, 2011, he had gone to Location C. At about 1:15 p.m. on that date he saw Respondent leave the residence and enter a vehicle that was parked in the driveway and that was registered to him.

Suo approached the car and advised Respondent who he was and showed him identification. He told Respondent he was there to serve notification on Respondent to appear for a Department trial on November 1, 2011. Suo said the car windows were rolled up but concluded that Respondent heard him because he responded to him.

Respondent refused to stop or roll down the windows. As he continued to drive away Suo put an envelope containing the charges and notice to appear underneath the windshield wiper.

Opening statements were commenced on that day but no testimony was taken. The matter was adjourned to November 7, 2011.

On November 7, 2011, Respondent did not appear. The Advocate indicated that an attempt had been made to serve Respondent on November 2, 2011, and an affidavit of service was filed with this Court. Testimony was taken. The trial was adjourned to December 12, 2011.

On December 12, 2011, Respondent did not appear. The Advocate indicated that an additional effort had been made to serve Respondent and an affidavit of service was

filed with this court. Testimony was taken. The matter was adjourned to February 1, 2012.

On February 1, 2012, Respondent did not appear. The Advocate indicated that additional efforts were made to serve Respondent and an affidavit of service was filed with this Court. Testimony was taken. The matter was adjourned to March 5, 2012.

On March 5, 2012, Respondent did not appear. The Advocate indicated that additional efforts had been made to serve Respondent and an affidavit of service was filed with this Court. Testimony was taken and the trial concluded.

It appears to the Court that substantial and repeated efforts were made to notify Respondent of this proceeding and provide him with an opportunity to appear and be heard. 38 RCNY§ 15-03 (2) provides that “service of the Charges and Specifications shall be made in a manner reasonably calculated to achieve actual notice to respondent.” The repeated service of the charges and specifications at multiple locations where Respondent lives and works more than satisfied this requirement. Other efforts by the Department, including notification of his civil attorney who appeared in this forum, establish that there is reason to believe that Respondent was on notice of the pendency of this proceeding. Most significantly Respondent was personally served at his home by *Suo* prior to the commencement of the ~~trial~~.

In addition 38 RCNY§ 15-03 (2) also provides “Service by certified mail, return receipt requested, contemporaneously with service by regular first-class mail, to the respondent's last address known to the Department, shall be presumed to be reasonably calculated to achieve actual notice.” Appropriate proof of service, in the form of affidavits were filed with this Court indicating that Respondent was duly notified in this

manner with regard to appearances for July 28, 2011, November 7, 2011, December 12, 2011, and March 5, 2012.

This Court is satisfied that Respondent has been properly served on multiple occasions and had ample opportunity to appear and/or to be represented in this forum. This Court is further satisfied that Respondent had actual knowledge of these proceedings and chose to absent himself. It should be noted that at no time up to and including the date of this decision did Respondent contact this Court in any way requesting an opportunity to be heard.

PART II – THE SUBSTANTIVE CHARGES

SUMMARY OF EVIDENCE PRESENTED

The Department called Lieutenant Richard Beshlian, Gurdev Dogra, Mandeep Singh, Parminder Singh, Lieutenant Will Ahmad, Philip Sparacio, Lieutenant William Montgomery (retired), and Sergeant Darryl Valinchus as witnesses.

Lieutenant Richard Beshlian

Beshlian, a 24-year member of the service currently assigned to IAB, participated in an official Department interview of Respondent on November 10, 2005. Respondent's attorney was present at the interview. When asked in the interview if a member of the service had divulged confidential information to him, Respondent stated that Sergeant Christopher Olsen provided him with IAB worksheets pertaining to complaints that had been made against him (Respondent) by Person F and Person G. Olsen

gave Respondent the worksheets at a location named Punjabi Palace in late November or early December 2003. At the time, the worksheets were pursuant to an active, ongoing investigation. When asked why Olsen gave him the documents, Respondent stated something to the effect of, "Friends do things to help people out." Respondent stated in the interview that he did not report Olsen's misconduct to anyone in the Department. He turned the documents over to the investigators at the interview. [DX 9A and 9B are the interview tape and transcript. DX 10 consists of copies of the worksheets, which relate to complaints that Respondent received kickbacks from establishments in the community. DX 11 is the post-trial negotiation settlement of Department charges against Olsen, indicating that Olsen pled guilty to divulging official Department business and supplying the IAB worksheets to the subject of an investigation.]

Gurdev Dogra (aka Andy)

Dogra, a Suffolk County resident, is self-employed at a tow truck company. He has known Respondent since 2003. They met when Respondent was a community affairs officer who helped him get a Parks Department permit for a cultural program in a [REDACTED] park. Respondent told Dogra that the Parks Department fee for the permit was \$2,500 and that it should be paid in cash. When Dogra asked why it needed to be paid in cash, Respondent suggested that he would use the cash to purchase money orders for the Parks Department and other agencies. Dogra ended up giving Respondent the \$2,500 in cash in addition to two checks that were supposedly for the Parks Department. One of the checks was for \$25 and the other was for \$250.

In 2005, Dogra went to Respondent for help obtaining a permit for another park event. Respondent told him that this time the permit would cost \$5,000. When Dogra asked him what the money was for, Respondent replied that it was for his friend, Phil, who was a commissioner in the Parks Department and could get a permit "from the back door." Dogra became angry with Respondent because he knew from a 2004 park event he had planned that a permit could be obtained for just \$25. Respondent told him that he could try to get them himself through the Parks Department but Dogra said he had tried that and every date he gave them they told him was unavailable.

Dogra negotiated with Respondent and eventually got Respondent down to \$4,000. After that he called IAB to teach Respondent a lesson. IAB signed Dogra up to be a confidential informant and gave him equipment to record his conversations with Respondent.

On July 26, 2005, Dogra met Respondent at the Parks Department with the recording equipment activated and \$4,000 in cash he had been given by IAB.

Dogra testified that when Respondent showed up in his car he went into the office to get the permit while Dogra waited in the parking lot. When he returned he told Dogra that Phil wanted wine in addition to the money. They went in separate cars to a liquor store. When they got there Respondent called him over to his car and Dogra sat in the passenger seat. Dogra said Respondent opened the middle console and told him to put the "stuff" there. Dogra understood this to mean the \$4,000 which he placed in the console.

They then went to the store where Respondent picked out \$218.42 worth of alcohol, and Dogra paid for it on his credit card. While inside the liquor store, Dogra told

Respondent that he would not need Respondent to provide security at the upcoming park event. Respondent replied that he would not get the permit unless he (Dogra) used his (Respondent's) security services. Because Dogra felt like he had no choice, he agreed to use Respondent for security at a rate of \$50 per person per hour.

Respondent also asked that Dogra and Dogra's business partner each contribute \$100 to the campaign of a friend who was running for office. A couple of days later, Dogra dropped off a \$200 check for Respondent.

The event that Dogra was planning took place on September 3, 2005. On that day, he paid \$3,500 in cash to Respondent for a security team. The money that Dogra gave Respondent had been provided by IAB. Because the event lasted an hour later than scheduled, Dogra had to give Respondent an extra \$500 at the end of the day. In addition to all the money that Dogra gave Respondent for the event, Dogra also paid the regular Parks Department event fees, which consisted of \$25 for the permit, \$250 for a stage, and a \$1,000 check that was held as security and returned to Dogra after the area was properly cleaned.

During Dogra's testimony the following items were placed in evidence: DX 12 is a Detectives Endowment Association (DEA) card that Respondent gave to Dogra. On the card, Respondent indicated that Dogra was his brother-in-law. DX 13 is a copy of the liquor store receipt from July 26, 2005. DX 14A and 14B are the compact disc recording and transcript of Dogra's conversation with Respondent on that day.

Mandeep Singh (aka Raj)²

Mandeep, a [REDACTED] resident, is currently employed as a construction worker. He was first introduced to Respondent through a family friend named Person H in 2001 or 2002. On December 19, 2003, Mandeep went to the 102 Precinct to file a complaint against a woman who had attempted to wrongfully cash one of his business checks. A family friend, Parminder Singh, went with him. On January 8, 2004, Mandeep and Parminder returned to the station house with Person H to check on the status of the complaint. While there, they saw Respondent and told him about the woman and the check. Respondent asked for the woman's number and proceeded to call her. After the call, Respondent told Mandeep and Parminder that the woman had filed complaints concerning their illegal immigration status.

On January 10, 2004, Mandeep, Parminder, and Person H met with Respondent at a [REDACTED] location. Respondent told Mandeep and Parminder that he knew "two guys" at the Department of Homeland Security who could remove the woman's immigration complaints from the computer system. Later that evening, at Respondent's house, Respondent told them that the guys at Homeland Security would have to be paid for their assistance, but he did not discuss a specific dollar amount. Within the next day or so, they met Respondent at a lawyer's office on Liberty Avenue. After the lawyer left the room, Respondent told them that he was continuing to work on the immigration issue and he gave them DEA cards. [DX 15 is the DEA card that Respondent gave Mandeep.]

On January 14, 2004, Mandeep, Parminder, and Person H met Respondent at a Dunkin Donuts on Hillside Avenue. Respondent told Mandeep and Parminder that the guys at Homeland Security were ready to clear their names from the computer but that it

² Mandeep's testimony was translated from Punjabi by interpreter Mahfooz Jafry.

would cost \$60,000. Respondent then had them follow him to Jamaica Hospital and instructed them to wait in the car. They observed Respondent talking to a hospital security guard. They could not hear the conversation but could see Respondent and the guard gesturing toward the car. After 20 or 30 minutes, Respondent returned to the car and told them that the arrangements for removing their names from the computer system were complete and that it would cost \$60,000 if they paid within three days. According to Respondent, it would cost \$90,000 if it took longer than three days to pay. They agreed to pay. As they were driving away, Respondent stopped the car and ordered them to get out. Respondent was angry with Parminder and had a conversation with Parminder that Mandeep could not hear in its entirety.

At Respondent's request, Mandeep went to the 102 Precinct on January 29, 2004, to pay him for taking care of the immigration matter. When Mandeep arrived with \$5,000 in cash that had been provided by IAB, Person H was also there. Without speaking, Respondent made a gesture in request of the money. Mandeep responded by opening his jacket to indicate that the money was in the jacket's inside pocket. When Mandeep started to give Respondent the money, Respondent instructed him to give the money to Person H outside of the station house instead. After Mandeep informed Person H that he did not have the full amount, Person H did not accept it. Mandeep ended up returning the money to IAB. At one point during the encounter, Respondent showed Mandeep a yellow envelope and indicated that the paperwork inside the envelope showed that the immigration problem had been resolved. Respondent never actually opened the envelope to show what was inside.

In 2003, Mandeep and his employees spent three days building a deck at Respondent's house. Respondent never offered to pay for the job, and Mandeep had to pay his employees out of his own pocket. Mandeep explained that he did the job because Respondent was a police officer and he might need Respondent's help at some point. Mandeep further explained that he never submitted a bill to Respondent because Respondent got him out of paying a summons on one or two occasions.

Parminder Singh (aka Perry)

Parminder met Respondent for the first time when he went to the 102 Precinct with Mandeep in January 2004. On that day, Respondent told Parminder that the woman against whom Mandeep had filed his police complaint was now complaining about his (Parminder's) immigration status. Respondent warned Parminder that his immigration status could become a problem.³

A few days later, Person H arranged for Parminder to meet Respondent at a lawyer's office. Parminder described Person H as a community leader whom everyone knew was corrupt. At Respondent's request, the lawyer left the room. Respondent had a file in his hand and told Parminder, "I may have to arrest you because everything is in the system." He proceeded to instruct Parminder not to go home that day, to take the sim card out of his phone, and to buy some sort of tape recorder that cost \$4,000 or \$5,000. After using the recorder, Parminder was to give the device to Respondent. Respondent also told Parminder that he knew people who could delete his name from the system but suggested that this would cost money. At the meeting, Respondent gave Parminder a DEA card and a Deputy Inspector mini-shield inside a mini-shield holder engraved "Family Member."

³ Parminder referred to Respondent as "Detective Rudy."

[DX 16 is the DEA card that Respondent gave Parminder. DX 17 is the mini-shield inside its holder.]

Parminder consulted an attorney after he received a telephone call from someone claiming to be from Homeland Security. The attorney advised him that he was being scammed. On January 13, 2004, Parminder went to IAB, where he identified Respondent in a photo array [DX 18]. IAB gave him a recording device, which he wore the next day when he met Respondent, Mandeep, and Person H at a Dunkin Donuts. They then drove to Jamaica Hospital, where Respondent spoke to a security guard. After the conversation, Respondent told Parminder and Mandeep that their immigration problem would be resolved, but that it would cost them \$60,000 or \$90,000 depending on how soon they paid. Respondent also told Parminder that he might need him to do work on his roof during the summer. [DX 19 is the tape recording of Parminder's conversations with Respondent on that day.]

On January 18, 2004, Parminder got \$2,000 in cash from IAB to give Respondent, but Person H told him that Respondent would not accept that amount because it was not enough money. Parminder was not present when Mandeep later met with Respondent to make a payment because Respondent had expressed to Person H that Parminder could not be trusted.

Lieutenant Will Ahmad

Ahmad, who is currently assigned to IAB, translated from Punjabi to English numerous tapes pertaining to the investigation of Respondent. Punjabi is Ahmad's native language, and he speaks it fluently. On the tapes, Respondent always spoke in English

while the other people (Mandeep, Parminder, Person H) normally spoke in Punjabi. Ahmad was able to distinguish each person's voice and produced an all-English version of the conversations that took place at Dunkin Donuts and Jamaica Hospital on January 14, 2004. [DX 20 is the English transcript.]

Philip Sparacio

Sparacio has been employed by the New York City Department of Parks and Recreation since 1982. His job title is Deputy Chief of Operations of Queens Parks, and he used to oversee the issuance of special event permits. Sparacio first met Respondent in 1998 at a community meeting. At the time, Respondent was a new member of the 102 Precinct Community Affairs team. Because Respondent had a connection with the Richmond Hill community, he was of assistance with their cultural events. He would reach out to Sparacio when somebody needed a permit and did not know how to go about getting one. Sparacio and Respondent spoke with each other regularly about business matters.

In August 2005, Respondent contacted Sparacio about obtaining permits for events to be held in Smokey Oval Park. An event being organized by a man named Andy Singh seemed to be of particular concern to Respondent. There was initially a scheduling conflict with another event, and Respondent called the office several times to ask about the permit. A special event permit was ultimately obtained for the event to take place the first weekend of September. Sparacio explained that there would have been a \$25 processing fee for the permit, plus additional fees depending on whether there was going to be tents, food sales, or advertising. These fees would have been paid by check or

money order. Fees were never taken in cash. Around the time of the event, Respondent came to Sparacio's office and left a case of wine in his truck. Although Respondent had never before given Sparacio anything that Sparacio considered substantial, there were occasions that Respondent gave him a bottle of rum, one bottle of wine, movie tickets, and perhaps some cigars.

Lieutenant William Montgomery (retired)

Montgomery has been employed by the American Society for the Prevention of Cruelty to Animals for four and a half years. Before that, he spent 22 years as a member of this Department. While working in IAB Group 27, he was a team leader of the investigation into Respondent's alleged misconduct. Montgomery conducted an official Department interview of Respondent on June 8, 2005. Respondent was represented by counsel during the interview. [DX 22A and 22B are the interview tapes and transcript.]

Montgomery met Mandeep and Parminder for the first time on January 13, 2004. On that day, Parminder identified Respondent in a photo array. Montgomery set Parminder up with a recording device the following day, and he watched as Parminder and Mandeep met with Person H and Respondent at Dunkin Donuts.

At no point did Montgomery or anyone in his group authorize investigatory worksheets (the documents entered into evidence as DX 10) to be turned over to Respondent. Respondent never reported to the Department that Olson had provided copies of those worksheets to him.

Sergeant Darryl Valinchus

Valinchus, a 24-year member of the Department, is currently assigned to the Intelligence Division. He used to be assigned to IAB Group 27, where he worked on the investigation into Respondent's alleged misconduct. On March 2, 2006, he conducted an official Department interview of Respondent. In the interview, Respondent stated that on July 26, 2005, Dogra gave him \$4,000. Respondent went on to state that he subsequently delivered the money to Sparacio at Sparacio's office and that he also left in Sparacio's vehicle a case of wine that had been purchased by Dogra. Respondent told Valinchus that he had previously dropped off cash to Sparacio on numerous occasions for different events, and subpoenaed telephone records showed that there were over 42 telephone calls made between Respondent and Sparacio between July and August 2005.

Respondent stated in the interview that at a September 3, 2005, park event, Dogra gave him approximately \$3,500, which he in turn gave to a Gary White and other individuals who had been working security at the event. An inspection of Respondent's personnel file showed that he was not authorized to engage in off-duty employment. Nor did Respondent have a watch guard license. Valinchus explained that a watch guard license is a state-issued permit to run a security firm or act as security for events. One is required for a uniformed member of the service who is working security. Respondent conceded his lack of a guard license during his interview. In addition, Respondent stated that he accepted contributions numerous times for elected officials. Department regulations prohibited that kind of activity.

The day after the interview, Respondent reported to his command and applied for 40 days of vacation. The following Monday, he went to the Pension Section and applied

for vested retirement. That night, he took a flight to Peru. At that point in the investigation, Valinchus requested that the State Department go to the Lima, Peru, address that Respondent had listed on his Leave of Absence Report and advised Respondent to return home. [DX 24 and 25 are the tapes and transcript of the March 2, 2006, interview.]

FINDINGS AND ANALYSIS

Specification Nos. 1 & 2

Specification No. 1 alleges that Respondent "on or about and between December 19, 2003 and February 6, 2004, while acting in concert with Person H, did attempt to steal property, to wit: US currency in excess of \$50,000.00 (fifty thousand dollars), from Mandeep Singh and Parminder Singh, by stating he could assist them with alleged current and/or future immigration issues in return for this money."

Specification No. 2 alleges that within those same dates that Respondent "with intent to obtain a benefit for himself, did knowingly commit an act relating to his office, but constituting an unauthorized exercise of his official functions, knowing such act is unauthorized, to wit; he used his office in order to attempt to obtain US currency for himself and for Person H by stating he could assist Mandeep Singh and Parminder Singh with alleged current and/or future immigration issues."

Credible testimony from Mandeep Singh (Raj) and Parminder Singh (Perry) establish that Respondent told them that he could arrange to have their immigration problems taken care of if they paid \$60,000 in three days or \$90,000 in five days. This is

corroborated by the tape recording of their conversation with Respondent and Person H in the vicinity of Jamaica Hospital on January 14, 2004.

During his official Department interview Respondent acknowledged going to the vicinity of Jamaica Hospital and identified his voice on the audio recording. His statements about the substance of that recorded conversation are not credible. Prior to the tape being played for him Respondent had little difficulty recalling events and conversations with Person H and Mandeep. After the tape was played, Respondent's memory quickly faded. Initially he claimed not to know what the reference to \$60,000 was in the conversation. He also initially claimed that only Person H was present. He later said that he recalled discussions between Person H and Mandeep over money and that it might have involved a car in India. He also later conceded that Mandeep was present during the conversation.

Specification No. 1 charges Respondent with a violation of the Patrol Guide and with the crime of Attempted Grand Larceny in the Second Degree. It is clear from the testimony, and the transcript of the conversation that Respondent attempted to defraud Pariminder out of an amount of money in excess of \$50,000. Respondent is found Guilty of Specification No. 1.

Specification No. 2 charges Respondent with a violation of the Patrol Guide and with the crime of Official Misconduct. I find credible the testimony from Mandeep and Parminder that Respondent's scheme began when those individuals went to 102 Precinct regarding the misuse of one of Mandeep's business checks. According to their testimony Respondent in his capacity as a member of this Department told them that the alleged perpetrator in the check matter was now claiming that Mandeep and Parminder had an

immigration problem and that she was going to report this. Thus Respondent used his official position to set this fraudulent scheme in motion. Respondent is found Guilty of Specification No. 2.

Specification Nos. 3 & 4

In an earlier administrative proceeding Respondent was found Not Guilty of these specifications. It would appear that no additional or different evidence was presented at this proceeding. As a result this Court will not rule further on this issue and will adopt the previous determination. Respondent therefore is found Not Guilty of Specification Nos. 3 & 4.

Specification No. 5

This specification alleges that Respondent "on or about and between November 1, 2003 and January 25, 2004,... having become aware of serious misconduct or corruption on the part of another member of the service, did fail and neglect to notify his Commanding Officer and/or the Internal Affairs Bureau Command Center, as required in that he failed to notify the Department that a Sergeant in the New York City Police Department had warned him that he was the subject of an investigation, and had given said Detective two (2) IAB documents detailing complaints made against him by names persons."

During an official Department interview, conducted on November 10, 2005, Respondent acknowledged that Sergeant Christopher Olsen, who had been assigned to IAB, handed him two pieces of paper. He stated that he recalled reading the papers and

that he discovered that a person named Person F had accused him of receiving kickbacks from community members. There was also information that a person named Person G had made a similar accusation. Respondent had the papers with him at the interview and handed them over to the investigator.

Olsen's conduct in handing over those papers to Respondent constituted a serious act of misconduct on Olsen's part. Respondent had an ongoing responsibility to report this misconduct to his commanding officer or IAB. His failure to do so constitutes misconduct on his part and Respondent is found Guilty of Specification No. 5.

Specification No. 6

This specification charges that Respondent, "while off duty, on or about September 3, 2005, did wrongfully and without just cause engage in off duty employment without permission or authority to do so, in that he furnished for hire or reward, watchmen or guards or private patrolmen or other persons to protect persons or property, and he did fail and neglect to obtain a License, as required."

Respondent stated at his March 2, 2006, official Department interview that at the September 3, 2005, park event, Dogra gave him about \$3,500, which Respondent gave to individuals who had been working security at the event. Furthermore, IAB found that Respondent neither possessed off-duty employment authorization from the Department nor a state-issued watch guard license, which Respondent admitted in his interview.

Respondent is found Guilty of Specification No. 6.

Specification Nos. 7 & 8

These two specifications have been dismissed by the Department.

Specification No. 9

This specification alleges that Respondent “on or about July 26, 2005, while off duty, did wrongfully solicit funds for a fundraiser from Gurdev Dogra (“Andy”) and another person, and did so with the intent to benefit himself by committing an act relating to his office, but constituting an unauthorized exercise of his official functions, knowing such act to be unauthorized.”

Dogra testified that Respondent solicited political contributions of \$100 each from him and his business partner. Respondent acknowledged that he collected money for political campaigns and that this was likely for an election campaign by Fernando Ferrer.

Respondent is charged in this specification with violating Patrol Guide Procedure 203-10. He is found Guilty of violating this Patrol Guide section.

Respondent is also charged with the Penal Law crime of Official Misconduct under this specification. There is no testimony or other evidence linking this particular act to Respondent’s official duties. Respondent is found Not Guilty of committing the crime of Official Misconduct under this specification.

Specification Nos. 12 & 13⁴

These specifications involve conduct that allegedly occurred “on or about and between July 26, 2005 and September 3, 2005” involving Respondent and Dogra. These

⁴ These two specifications are taken out of order.

specifications allege that Respondent, along with Dogra, gave to Parks Department employee Philip Sparacio an amount of US currency and a case of wine in return for the issuance of a permit to hold an event in Smok[ey Oval] Park. Specification No. 12 charges Respondent with the crime of Giving an Unlawful Gratuity while Specification No. 13 charges Respondent with the crime of Conspiracy in the Sixth Degree. Both specifications charge Respondent with having violated the Patrol Guide.

There is ample credible evidence to establish that Respondent represented to Dogra that he would obtain a permit for him to conduct an event in Smokey Oval Park but that he would need to make an illegal payment to Sparacio to do so. There is ample evidence to establish that Dogra gave Respondent \$4,000 for having obtained the permit. There is also ample and credible evidence that Dogra purchased over \$200 worth of alcoholic beverages for the same purpose at Respondent's request.

The problem with this charge is Sparacio testified at this proceeding and did not acknowledge receiving any money for the Smokey Oval Park event or for that matter for any event. While he acknowledged receiving alcoholic beverages from Respondent, he did not acknowledge receiving a case of wine from Respondent with regard to the event at Smokey Oval Park.

There is some testimony that the money went to Sparacio but it comes from Respondent. At his March 2, 2006, official Department interview, Respondent claimed he gave the envelope which Dogra gave him to Sparacio.⁵ The problem with this is that Respondent is completely lacking in credibility.

For instance Respondent claimed he had no idea that the envelope had \$4,000 in it. He said he thought it contained only the Parks Department fees. It is simply beyond

⁵ Dogra said the money was held by a rubber band and did not mention an envelope.

belief that he would take an envelope to transmit to a Parks Department official without checking the contents. Even the way he admits to accepting the envelope sounds inappropriate, they are in a car in the parking lot of a liquor store and he has Dogra put it in his glove compartment.⁶ Lastly, and perhaps most significantly is that prior to being told that there was a recording of this conversation Respondent stated that Parks Department fees are to be paid with two checks, "either a personal or bank check." When it was pointed out to him that an envelope with \$4,000 in cash would feel very different than one with two checks he professed ignorance of Parks Department practices although he had acknowledged that arranging events was something he regularly did as a community affairs officer. All of this demonstrates that Respondent's statement about this transaction cannot be accepted as true.

Consequently there is no credible evidence to support a finding that the money or even a part of it went to Sparacio.

Obviously there was an intent on Respondent's part to obtain the money and the wine either for his own use or for the purpose of giving an unlawful gratuity to Sparacio but we do not know which it was.

Respondent's conduct in receiving money from Dogra for the alleged purpose of "paying off" Sparacio is serious misconduct which has a significant impact on the "good order, efficiency and discipline" and violates the Patrol Guide. There is however no evidence that a gratuity was bestowed on Sparacio in his capacity as a Parks Department employee as alleged. With regard to Specification No. 12, Respondent is found Guilty of violating the Patrol Guide. With regard to the charge of Giving an Unlawful Gratuity Respondent is found Not Guilty.

⁶ Dogra testified that he put it in the middle console.

In Specification No. 13 the Patrol Guide section is premised on the criminal charge of Conspiracy. It also requires intent to commit the crime, in this case the crime of Official Misconduct. In this case it is not clear that Respondent had an intent to make an illegal payment to Sparacio and his intent may well have been to commit larceny by keeping the money and wine. Without credible proof that Sparacio received the money and wine these charges cannot be sustained. Respondent is found Not Guilty of Specification No. 13.

Specification Nos. 10 & 11

These specifications involve conduct that allegedly occurred “sometime on or before September 2004” and allege that Respondent, along with Dogra, gave Sparacio an amount of US currency and a case of wine in return for issuance of permits for events. Specification No. 10 charges Respondent with the crime of Giving an Unlawful Gratuity while Specification No. 11 charges Respondent with the crime of Conspiracy in the Sixth Degree. Both specifications charge Respondent with having violated the Patrol Guide.

It should be noted that no specific events are mentioned in these specifications which cover an open-ended period of time prior to September 2004.

In an earlier administrative proceeding the dates of the alleged misconduct listed for Specification Nos. 12 and 13 correspond to the dates in the above two specifications (Specification Nos. 10 and 11) in this case. It was recommended that the specifications involving the open ended period of time “sometime before 2004” be dismissed. It would appear that no additional or different evidence was presented at this proceeding. As a result this Court will not rule further on this issue and will adopt the previous

determination. Therefore, Specification Nos. 10 and 11, alleging misconduct "on or before September 2004," are dismissed.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on June 30, 1992. He was dismissed from the Department on April 3, 2006. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has been found guilty of a number of acts of misconduct. Clearly the most serious are the two that involve the effort to improperly obtain money from others. One is the effort to obtain over \$50,000 from Mandeep and Parminder Singh and the other involves the obtaining of \$4,000 and a case of wine from Dogra. In the first instance Respondent was found guilty of criminal conduct, Attempted Grand Larceny. In the second Respondent was not found guilty of a specific crime, however, his conduct clearly involved some form of criminal intent. That is either he obtained the money to make an improper payment to a Parks Department employee, or he intended to keep the money for his own use thereby committing a larceny.

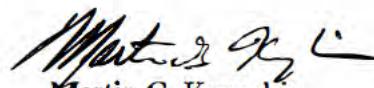
Exacerbating this criminal conduct in each instance is the fact that Respondent collected or attempted to collect money on the premise that he was going to corrupt a government official. Mandeep, Parminder and Dogra knew Respondent to be a police officer and member of this Department. Respondent's conduct not only communicated

that he was corrupt but that he, by dint of his position, was able to corrupt other governmental officials.

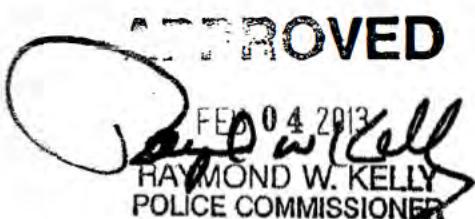
Also quite serious is his failure to report Olsen's misconduct. Olsen had provided Respondent with information naming people who had complained against him. Olsen's misconduct is obvious but Respondent had an obligation to report Olsen's misconduct. Olsen worked for IAB, the branch of this Department responsible for rooting out corruption. Respondent's failure to report that Olsen had violated the trust placed in him further undermined the system.

If Respondent were still an employee of this Department the only possible recommendation as to penalty would be that Respondent be DISMISSED from the Department. As has been noted Respondent was terminated from his employment with this Department in 2006. While he has been granted the right to a new hearing Respondent has not been re-instated. It is therefore recommended that Respondent's employment status not be changed and that the decision in this matter be kept on file.

Respectfully submitted,



Martin G. Karopkin
Deputy Commissioner - Trials



POLICE DEPARTMENT
CITY OF NEW YORK

From: Deputy Commissioner - Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
FORMER DETECTIVE RUDRANAU TOOLASPRASHAD
TAX REGISTRY NO. 902481
DISCIPLINARY CASE NO. 81669/06

Respondent received an overall rating of "Competent" on the most recent annual performance evaluation contained in his personnel folder. He had been awarded one Commendation, one Meritorious Police Duty medal and one Excellent Police Duty medal. He had no prior formal disciplinary record.

For your consideration.



Martin G. Karopkin
Deputy Commissioner - Trials